

**AMENDMENT NO. 1 TO LIMITATION ON APPRAISED VALUE AGREEMENT
BETWEEN FRIONA INDEPENDENT SCHOOL DISTRICT
AND MARIAH NORTH WEST, LLC
(Comptroller Application No. 289)**

This AMENDMENT NO. 1 TO LIMITATION ON APPRAISED VALUE AGREEMENT FOR FRIONA INDEPENDENT SCHOOL DISTRICT (this “First Amendment”) is entered into to be effective as of October 23, 2013, by and between MARIAH NORTH WEST, LLC, a Texas limited liability company, Texas Taxpayer Identification Number 32041670004 (the “Applicant”), and Friona Independent School District (the “District”). The Applicant and the District may hereafter be referred to as, together, the “Parties” and each, a “Party.” Undefined capitalized terms herein shall have the meaning given to them in the Agreement (as defined below).

WITNESSETH:

WHEREAS, on or about October 23, 2013, pursuant to Chapter 313 of the Texas Tax Code, after conducting a public hearing on the matter, the District made factual findings, and passed, approved, and executed that certain Limitation on Appraised Value Agreement for Friona Independent School District dated October 23, 2013, by and between the District and the Applicant (the “Agreement”).

WHEREAS, the Parties desire to amend Section 4.2 of the Agreement to defer the supplemental payments in years 1 and 2 of the Agreement.

WHEREAS, on February 9, 2015, after conducting a public hearing and providing interested persons an opportunity to be heard on the matter, the Board of Trustees determined that this First Amendment is in the best interest of the District and the State of Texas and is consistent with and authorized by Chapter 313 of the Texas Tax Code, and approved the form of this First Amendment and authorized the District’s representative, whose signature appears below, to execute and deliver such First Amendment to the Applicant.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties, intending to be legally bound, do hereby covenant and agree to amend the Agreement as follows:

1. Article 4, Section 4.2. Article 4, Section 4.2 is deleted in its entirety and replaced by the following:

4.2.1 Subject to Section 5.1, for each of years one (1) through thirteen (13) of this Agreement, the District shall be entitled to receive the maximum amount of payments in lieu of taxation (“supplemental payments”) as allowed by law, which is currently One Hundred Dollars (\$100.00) per Student in Average Daily Attendance (ADA), as determined for that particular school year in accordance with Texas Tax Code § 313.027(i).

- 4.2.2 In the event Chapter 313 is modified or amended to allow the District to receive supplemental payments in excess of the foregoing ADA limitation, Applicant agrees to cooperate with District in amending this Agreement to allow District to receive the maximum amount of supplemental payments as allowed by law; provided however, the total supplemental payments for any given year of this Agreement shall not exceed the greater of forty percent (40%) of Applicant's Net Tax Savings under this Agreement in such year or \$100 per student in ADA, as determined for that school year. This Section shall only apply if Texas Tax Code § 313.027(i) is amended so that the District is permitted to receive supplemental payments greater than as described in Section 4.2.1 above; otherwise, Section 4.2.1 shall apply.
- 4.2.3 If during years one (1) or two (2) of this Agreement the amount of the supplemental payments calculated in Section 4.2 exceeds Applicant's Net Tax Savings, the difference between the amount of the supplemental payments and Applicant's Net Tax Savings shall be carried forward from year-to-year (the "deferred payments"). Beginning in year three (3) of the Agreement, and in addition to the supplemental payment for that year, all deferred payments owed to the District shall be paid by Applicant to the extent all payments from Applicant to the District for that year do not exceed Applicant's Net Tax Savings. Any amount of deferred payments that remain unpaid shall be carried forward from year to year until all deferred payments are paid in full.
- 4.2.4 Should Applicant fail to make the minimum Qualified Investment during the Qualifying Time Period causing this Agreement to become null and void, Applicant's obligation to make any deferred Payment(s) that was carried over by operation of Section 4.2.3 shall be cancelled.
- 4.2.5 Payments of amounts due under this Section shall be made as set forth in Section 3.7 of this Agreement and are subject to the limitations contained in Section 5.1. Payments made under this Article 4 shall not exceed the Aggregate Limit.

2. Effect. Except as modified and amended by the terms of this First Amendment, all of the terms, conditions, provisions and covenants of the Agreement are ratified and shall remain in full force and effect, and the Agreement and this First Amendment shall be deemed to constitute a single instrument or document. Should there be any inconsistency between the terms of this First Amendment and the Agreement, the terms of this First Amendment shall prevail. A copy of this First Amendment shall be delivered to the Parmer County Appraisal District and to the Texas Comptroller to be posted on the Texas Comptroller's internet website.

3. Binding on Successors and Assigns. The Agreement, as amended by this First Amendment, shall be binding upon and inure to the benefit of the Parties and each other person and entity having any interest therein during their ownership thereof, and their respective successors and assigns.


4. Counterparts. This First Amendment may be executed in counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same document.

IN WITNESS WHEREOF, the Parties have caused this First Amendment to be executed and delivered by their duly authorized representatives.

[SIGNATURE PAGE FOLLOWS]


IN WITNESS WHEREOF, the authorized representatives of the parties hereto affix their signatures as of the date set forth below to be effective on February 9, 2015.

MARIAH NORTH WEST, LLC,
A Texas limited liability company
Texas Taxpayer ID No. 32041670004

By: 
Printed Name: James Scott
Title: CEO

Date: 2/4/2015

FRIONA INDEPENDENT SCHOOL DISTRICT

By: 
Printed Name: Becky Riethagen
Title: Secretary

Date: 2/9/2015

ATTEST:

By: 
Printed Name: Wade Schueler
Title: _____